



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

137547

NOV 08 1991

DEMAND FOR PAYMENT OF COSTS
SPECIAL NOTICE LETTER FOR RD/RA

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ben J. Davenport, Jr., President
First Piedmont Corporation
P.O. Drawer 1069
Danville, VA 24531

Re: First Piedmont Rock Quarry/ Route 719 Site
Danville, Virginia

Dear Mr. Davenport:

This letter follows a general notice letter that was issued on May 6, 1986, in connection with the above-referenced Site. As the listed contact person for the potentially responsible party ("PRP") identified above, this letter has been sent to your attention.

By this letter, First Piedmont Corporation (hereinafter "you" or "your company") is being provided an opportunity to participate in the Superfund remedial process by performing the Remedial Design and Remedial Action ("RD/RA") at the First Piedmont Rock Quarry/Route 719 Site ("Site") in Danville, Pittsylvania County, Virginia.

NOTICE OF POTENTIAL LIABILITY

As set forth in the general notice letter previously sent to you regarding this Site, the United States Environmental Protection Agency (EPA) has information that your company may be a PRP as defined at Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607(a), as amended (CERCLA), with respect to this Site.

SITE RESPONSE ACTIONS

In accordance with CERCLA and other authorities, EPA has already undertaken certain actions and incurred costs in response to conditions at the Site. These response actions include, but are not limited to, conducting a Preliminary Assessment/Site Inspection of the Site; listing the Site on the NPL; selecting

200036

the remedial action for the Site by issuing a Record of Decision; and enforcement activities, and have resulted in payroll, travel and indirect costs in connection with the response actions at the Site.

EPA plans to design and implement the remedy selected in the Record of Decision (ROD), dated June 28, 1991, for the Site, attached hereto as Appendix A to the enclosed Site-specific Draft Consent Decree. The remedy includes, but is not limited to, excavation, solidification/stabilization treatment (if determined to be a characteristic hazardous waste), and offsite disposal of the Carbon Black Pile, the Waste Pile, and the Northern Drainage soils and sediments; offsite disposal of the surface debris on the landfill; installation of a RCRA Subtitle C cap on the landfill; collection of leachate with treatment at a Publicly Owned Treatment Works; long-term ground water monitoring; and implementation of institutional controls.

As set forth above, EPA anticipates expending additional funds for the RD/RA. Whether EPA funds the entire RD/RA, or simply incurs costs by overseeing the party or parties conducting the RD/RA, EPA believes that you are liable for these expenditures plus interest.

DEMAND FOR PAYMENT

With this letter, EPA demands that you reimburse EPA for its costs incurred to date, and encourages you to voluntarily negotiate a consent order or decree in which you agree to perform the response action.

As of March 15, 1991, EPA has incurred costs in excess of \$103,260.70 in conducting response actions related to the Site. In accordance with Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), demand is hereby made for payment of the above amount plus any and all interest recoverable under Section 107 of CERCLA or under other provisions of law as well as all other costs the United States has incurred or will incur at the Site.

Interest on costs shall accrue from the later of (1) the date payment of a specified amount is demanded in writing, or (2) the date of expenditure, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). Interest rates are variable. The rate applicable on any unpaid amounts for any fiscal year is the same as is specified for interest on investments of the Hazardous Substance Superfund which is determined by the Department of the Treasury. The current annual rate of interest on unpaid costs is 7.99%.

In the event that you file for protection in the Bankruptcy Court, EPA reserves its right to file a Proof of Claim or Application for Reimbursement of Administrative Expenses against the bankrupt's estate.

4R200037

Remittance must be made payable to the "U.S. EPA Hazardous Substance Superfund" established pursuant to CERCLA in Title 26, Chapter 98 of the Internal Revenue Code, and you must reference the First Piedmont Rock Quarry/Route 719 Superfund Site. Please send your remittance to:

EPA - Region III
Attn: Superfund Accounting
P.O. Box 360515
Pittsburgh, Pa. 15251-6515

SPECIAL NOTICE NEGOTIATIONS MORATORIUM

EPA has determined that use of the "special notice" procedures specified in Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), will facilitate a settlement between EPA and the PRPs to conduct an RD/RA for this Site. Therefore, in accordance with Section 122 of CERCLA, your receipt of this letter triggers a sixty (60) day moratorium on certain EPA response activities at the Site. During this 60-day period, the PRPs, including your company, are invited to participate in formal negotiations with EPA. You are encouraged to voluntarily negotiate a settlement providing for the PRPs, including your company, to conduct or finance the response activities required at the Site. The 60-day negotiation moratorium will be extended for an additional sixty days if the PRPs provide EPA with an acceptable good faith offer (as described below) to conduct or finance the RD/RA before the end of the 60-day period. The settlement must be embodied in a consent decree by the end of the 120-day negotiation moratorium.

If EPA determines that a good faith offer has not been submitted within the first sixty (60) days of any moratorium period, EPA may terminate the negotiation moratorium pursuant to Section 122(e)(4) of CERCLA, 42 U.S.C. § 9622(e)(4). EPA then may commence response activities or enforcement actions as it deems appropriate. In the absence of an agreement with the parties to perform or to finance the necessary response activities, EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of Site expenditures. Alternatively, EPA may issue a unilateral administrative order pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), to require PRPs to initiate response activities, or may commence civil litigation pursuant to Section 106(a) of CERCLA to obtain similar relief. Failure to comply with an administrative order issued pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), may result in a fine of up to \$25,000 per day, pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), or imposition of treble damages, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3).

AR200038

CONSENT DECREE

Section 122(d)(1)(A) of CERCLA, 42 U.S.C. § 9622(d)(1)(A), requires that the settlements for remedial action be entered in the appropriate federal district court in the form of a consent decree. Enclosed with this letter you will find a site-specific draft of EPA Region III's model consent decree. This model provides boiler-plate language for most provisions in order to standardize CERCLA consent decrees as much as possible and expedite CERCLA settlements. The United States will commence negotiations with a document containing language which, for the most part, is the same language the Government will expect in a final settlement because it reflects legal and procedural terms that have been found acceptable to both EPA and the regulated community in a large number of situations. Your decision to submit a good faith proposal to perform the work should be made with the understanding that the terms appearing in the draft consent decree are substantially the terms which EPA expects to appear in the final settlement.

GOOD FAITH OFFER

As stated above, the 60-day negotiation moratorium triggered by this letter is extended for 60 days if the PRPs submit a good faith offer to EPA within the 60-day period. A good faith offer to conduct or finance the RD/RA is a written proposal that demonstrates the PRPs' qualifications and willingness to conduct or finance the design, implementation, and monitoring of the remedy specified in the ROD. In order for your proposal to be considered a good faith offer, it must include the following elements:

1. A statement of willingness by the PRPs to conduct or finance the RD/RA as described in EPA's ROD and draft consent decree and which provides a sufficient basis for negotiations.
2. Comments, if any, on the language or terms of EPA's draft consent decree.
3. A general statement of work identifying how the PRPs plan to proceed with the work.
4. A demonstration of the PRPs' technical capability to carry out the RD/RA, including the identification of the firm(s) that may actually conduct the work or a description of the process you will use to select the firm(s).
5. A demonstration of the PRPs' willingness and ability to finance the response.

AR200039

6. A statement of willingness by the PRPs to reimburse EPA for its unreimbursed past response costs and those costs to be incurred in overseeing the PRPs' conduct of the RD/RA.
7. The name, address, telephone, and telefax number of the party or steering committee who will represent the PRPs in negotiations.

PRP STEERING COMMITTEE

EPA encourages good faith negotiations between your company and EPA, and between your company and the other PRPs. To facilitate these negotiations, EPA has enclosed a list of other PRPs to whom this notification is being sent. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Site.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is critical for successful negotiations with EPA. Alternatively, EPA encourages each PRP to select one person from its company or organization who will represent its interests.

ADMINISTRATIVE RECORD

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established an administrative record which contains documents that form the basis of EPA's decision on the selection of response actions for the Site. The administrative record file, which contains the documents related to the response action selected for this Site, is available to the public for inspection and comment. This record file is maintained at the EPA Docket Room at the Pittsylvania County Library in Chatham, Virginia and at the EPA Region III office located in the 841 Chestnut Building, Philadelphia, Pa, 19107. EPA will consider comments received, if any, after the close of the comment period in accordance with 40 C.F.R. § 300.825.

PRP RESPONSE AND EPA CONTACT PERSON

You are encouraged to contact EPA as soon as possible to state your willingness to participate in future negotiations relating to the Site. You may respond individually or through a steering committee, if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the response, and that you have declined any

AR200040

involvement in performing the response activities. Under this circumstance, EPA may, among other things, issue an administrative order directing you to perform the response actions; seek to file an action in federal court to obtain a court order directing you to perform the response actions; and/or perform such response actions and seek reimbursement from liable parties.

If a proposal is submitted which does not satisfy EPA, you will be notified in writing of EPA's decision to end the negotiations moratorium and the reasons therefor. You may be held liable by EPA pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, for the cost of response actions performed by EPA at the Site and for any damages to natural resources.

Your response to this letter, including written proposals to perform the remedial actions selected for the Site, should be sent to:

Andrew Palestini (3HW24)
U.S. Environmental Protection Agency
841 Chestnut Street
Philadelphia, Pa 19107
(215) 597-1286

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

If you or your attorney have any questions pertaining to this matter, please direct them to Mr. A.J. D'Angelo at (215) 597-9226.

Sincerely,



Abraham Ferdas,
Director, Office of Superfund

Enclosures:

Draft Consent Decree
Recipients List

cc: Rohan Wikramanayake, VDWM
Martin J. Suuberg, DOI
Katherine Pease, NOAA
A.J. D'Angelo, EPA OGC
Ralph Lindeman, DOJ
Robert Dresdner, EPA OE

BR200041